THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 23473 of 1996

Dated: 05.12.2006

Between:

J. Eswara Rao.

.... PETITIONERS

AND

The Regional Manager, A.P.S.R.T.C., Visakhapatnam and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 23473 of 1996

Order:

The petitioner, who is working as Junior Assistant in the respondents-Corporation, filed the present writ petition questioning the action of the respondents in withholding the graduation increment, from his pay with effect from 01.04.1989.

2. When the matter is taken up for hearing today, it is submitted by the learned Standing Counsel for the respondents-APSRTC and admitted to by the learned counsel for the petitioners that the issue raised in this writ petition is squarely covered by the judgment of a Division Bench of this Court in W.A. No. 1138 of 1999 and batch, dated 01.03.2006. In view of the said judgment, the petitioners want to approach the Labour Court to establish their claim.

3. The operative portion of the judgment in W.A. No. 1138 of 1999 and batch, dated 01.03.2006, reads as hereunder.

> "However, in view of the fact that the very entitlement as such is a *lis subjudice* before the Labour Court and the same being comprehensively to be considered, it would be in the interest of justice that the employees herein can as well approach the Labour Court either by impleading themselves or by raising independent dispute. To avoid any further delays and with a view to put an end to the short question involved, learned Standing Counsel has no objection to such a course. It shall be open for the employees to file applications to implead themselves. It is also made clear that these employees are at liberty to raise all such other questions which are directly or indirectly involved in the reference made before the Labour Court in I.D. No. 38 of 2002 and all such aspects though independently arise out of the common question as to the entitlement, necessarily have to be considered comprehensively and disposed of on merits in accordance with law after giving sufficient opportunity to these employees also. The employees/Conductors are permitted to approach the Labour Court within a period of eight weeks from the date of receipt of a copy of this order.
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> Subject to the above W.A. Nos.1138 of 1999 and 723 of 2000 are allowed and W.P. No.8575 of 1999 and 2726 of 1994 are dismissed. No order as to costs"

4. In the circumstances, following the judgment of this Court in W.A. No. 1138 of 1999 and batch, dated 01.03.2006, the present writ petition is disposed of permitting the petitioner to approach the concerned Labour Court within a period of eight weeks from the date of receipt of a copy of this order. No costs.

N.V. RAMANA, J.

Date: 05.12.2006

sj/nsr